

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

APRIL BOREN, individually on behalf of
herself, and all others similarly situated,

Plaintiffs,

v.

SAFEWAY, INC.,

Defendant.

Case No. 2:25-cv-00182-MJP

STIPULATION AND ~~[PROPOSED]~~
ORDER TO WITHDRAW PORTIONS OF
SAFEWAY INC.'S AFFIRMATIVE
DEFENSES RAISED IN ITS ANSWER
[Dkt. # 8] TO PLAINTIFF'S CLASS AND
COLLECTIVE ACTION COMPLAINT
[Dkt. # 1]

**STIPULATION AND ~~[PROPOSED]~~ ORDER TO WITHDRAW PORTIONS OF
SAFEWAY INC.'S AFFIRMATIVE DEFENSES**

COME NOW Plaintiff APRIL BOREN, individually on behalf of herself, and all others
similarly situated ("Plaintiff") and Defendant SAFEWAY INC. ("Defendant"), erroneously sued
herein as Safeway, Inc., hereby enter into the following stipulation based upon the following
facts:

1. WHEREAS, on January 29, 2025, Plaintiff filed her Collective and Class Action
Complaint in this Court [Dkt. # 1];
2. WHEREAS, on February 26, 2025, Defendant filed its Answer to Plaintiff's Collective
and Class Action Complaint [Dkt. # 8];

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STIPULATION AND ~~[PROPOSED]~~ ORDER TO WITHDRAW PORTIONS OF
SAFEWAY INC.'S AFFIRMATIVE DEFENSES – 1
Case No. 2:25-CV-00182-DWC

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3. WHEREAS, following Defendant's filing of its Answer [Dkt. # 8], the Parties engaged in meet and confer discussions regarding Defendant's affirmative defenses raised in its Answer up until the date of this Stipulation;

4. WHEREAS, on March 19, 2025, Plaintiff filed her Unopposed Motion to Extend Deadline to file Response to Affirmative Defenses [Dkt. # 18]. On March 21, 2025, the Court granted this Motion, extending Plaintiff's deadline to respond to Defendant's affirmative defenses to April 2, 2025. [Dkt. # 19];

5. WHEREAS, on April 2, 2025, Plaintiff filed her Second Unopposed Motion to Extend Deadline to file Response to Affirmative Defenses [Dkt. # 20]. On April 2, 2025, the Court granted this Motion, extending Plaintiff's deadline to respond to Defendant's affirmative defenses to April 14, 2025 [Dkt. # 21];

6. WHEREAS, on April 14, 2025, Plaintiff filed her Third Unopposed Motion to Extend Deadline to file Response to Affirmative Defenses [Dkt. # 22]. On April 15, 2025, the Court granted this Motion, extending Plaintiff's deadline to respond to Defendant's affirmative defenses to April 28, 2025 [Dkt. # 23];

7. WHEREAS, on April 28, 2025, Plaintiff filed her Fourth Unopposed Motion to Extend Deadline to file Response to Affirmative Defenses [Dkt. # 25]. On April 28, 2025, the Court granted the Motion, extending the deadline to May 8, 2025 [Dkt. # 26];

8. WHEREAS, on May 8, 2025, Plaintiff filed her Fifth Unopposed Motion to Extend Deadline to file Response to Affirmative Defenses [Dkt. # 27]. On May 12, 2025, the Court granted the Motion, extending the deadline to May 22, 2025 but noting no further extensions would be granted [Dkt. # 28];

9. WHEREAS, through the Parties' meet and confer efforts, Plaintiff agreed not to file a Motion to Strike any of Defendant's affirmative defenses and Defendant agreed to withdraw its Fourth Affirmative Defense (Exemptions), Tenth Affirmative Defense (Failure to Mitigate), Twenty-Sixth Affirmative Defense (Failure to Exhaust), and Thirty-Seventh Affirmative Defense

(After Acquired Evidence) as pled in its Answer [Dkt. #8].

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between counsel for the Parties, subject to the approval of the Court, as follows:

1. Defendant's Fourth Affirmative Defense (Exemptions) is withdrawn from its Answer [Dkt. # 8] without prejudice;

2. Defendant's Tenth Affirmative Defense (Failure to Mitigate) is withdrawn from its Answer [Dkt. # 8] without prejudice;

3. Defendant's Twenty-Sixth Affirmative Defense (Failure to Exhaust) is withdrawn from its Answer [Dkt. # 8] without prejudice; and

4. Defendant's Thirty-Seventh Affirmative Defense (After-Acquired Evidence) is withdrawn from its Answer [Dkt. # 8] without prejudice.

IT IS SO ORDERED.

Dated this 22nd day of May, 2025.



MARSHA J. PECHMAN
UNITED STATES SENIOR DISTRICT JUDGE

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STIPULATION AND [PROPOSED] ORDER TO WITHDRAW PORTIONS OF
SAFEWAY INC.'S AFFIRMATIVE DEFENSES – 3
Case No. 2:24-CV-01719

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4 /s/Angeli Murthy

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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington, that the foregoing document was presented to the Clerk of the Court for filing and uploading to the CM/ECF system, which will send notification of such filing to all counsel of record.

DATED this 22nd day of May, 2025.

/s/ KC Hovda

4896-5027-5398.1